

FILED

Pro Se 2 (Rev. 12/16) Complaint and Request for Injunction

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MAR 09 2018

UNITED STATES DISTRICT COURTCLERK U.S. DISTRICT COURT
WEST. DIST. OF PENNSYLVANIA

for the

District of

Division

JOHN ABERNATHY*Plaintiff(s)**(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)***-v-****CITY OF PITTSBURGH, STATE OF
PENNSYLVANIA, PITTSBURGH BUREAU OF
POLICE AND MACS TOWING***Defendant(s)**(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)***Ben Smith, City of Pittsburgh
Attorney****COMPLAINT AND REQUEST FOR INJUNCTION****I. The Parties to This Complaint****A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name JOHN ABERNATHYStreet Address 4122 INLAND AVECity and County WEST MIFFLIN, ALLEGHENYState and Zip Code 15122Telephone Number 412-551-0572E-mail Address john_abernathy@hotmail.com**B. The Defendant(s)**

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known). Attach additional pages if needed.

Defendant No. 1

Name	STATE OF PENNSYLVANIA
Job or Title <i>(if known)</i>	
Street Address	STRAWBERRY SQUARE
City and County	HARRISBURG
State and Zip Code	PA
Telephone Number	7177873391
E-mail Address <i>(if known)</i>	

Defendant No. 2

Name	CITY OF PITTSBURGH
Job or Title <i>(if known)</i>	
Street Address	414 GRANT ST, #313
City and County	PITTSBURGH, ALLEGHENY
State and Zip Code	15219
Telephone Number	412-255-2015
E-mail Address <i>(if known)</i>	

Defendant No. 3

Name	PITTSBURGH BUREAU OF POLICE
Job or Title <i>(if known)</i>	
Street Address	1203 WESTERN AVE
City and County	PITTSBURGH
State and Zip Code	PA 15233
Telephone Number	412-323-7800
E-mail Address <i>(if known)</i>	

Defendant No. 4

Name	MACS TOWING
Job or Title <i>(if known)</i>	
Street Address	1200 RIVER RD
City and County	HOMESTEAD, ALLEGHENY
State and Zip Code	PA, 15120
Telephone Number	412-461-2615
E-mail Address <i>(if known)</i>	

II. Basis for Jurisdiction

Federal courts are courts of limited jurisdiction (limited power). Generally, only two types of cases can be heard in federal court: cases involving a federal question and cases involving diversity of citizenship of the parties. Under 28 U.S.C. § 1331, a case arising under the United States Constitution or federal laws or treaties is a federal question case. Under 28 U.S.C. § 1332, a case in which a citizen of one State sues a citizen of another State or nation and the amount at stake is more than \$75,000 is a diversity of citizenship case. In a diversity of citizenship case, no defendant may be a citizen of the same State as any plaintiff.

What is the basis for federal court jurisdiction? *(check all that apply)*

☒ Federal question

☐ Diversity of citizenship

Fill out the paragraphs in this section that apply to this case.

A. If the Basis for Jurisdiction Is a Federal Question

List the specific federal statutes, federal treaties, and/or provisions of the United States Constitution that are at issue in this case.

SEIZURE OF PROPERTY WITHOUT PROPER PRE OR TIMELY POST SEIZURE DUE
PROCESS IN VIOLATION OF MY FIFTH AND FOURTEENTH AMENDMENT RIGHTS

B. If the Basis for Jurisdiction Is Diversity of Citizenship

1. The Plaintiff(s)

a. If the plaintiff is an individual

The plaintiff, *(name)* JOHN ABERNATHY, is a citizen of the
State of *(name)* PENNSYLVANIA.

b. If the plaintiff is a corporation

The plaintiff, *(name)*, is incorporated
under the laws of the State of *(name)*,
and has its principal place of business in the State of *(name)*.

(If more than one plaintiff is named in the complaint, attach an additional page providing the same information for each additional plaintiff.)

2. The Defendant(s)

a. If the defendant is an individual

The defendant, *(name)* STATE OF PENNSYLVANIA, is a citizen of
the State of *(name)*. Or is a citizen of
(foreign nation).

b. If the defendant is a corporation

The defendant, (name) CITY OF PITTSBURGH, is incorporated under the laws of the State of (name) _____, and has its

principal place of business in the State of (name) _____.

Or is incorporated under the laws of (foreign nation) _____,

and has its principal place of business in (name) _____.

(If more than one defendant is named in the complaint, attach an additional page providing the same information for each additional defendant.)

3. The Amount in Controversy

The amount in controversy—the amount the plaintiff claims the defendant owes or the amount at stake—is more than \$75,000, not counting interest and costs of court, because *(explain)*:

III. Statement of Claim

Write a short and plain statement of the claim. Do not make legal arguments. State as briefly as possible the facts showing that each plaintiff is entitled to the injunction or other relief sought. State how each defendant was involved and what each defendant did that caused the plaintiff harm or violated the plaintiff's rights, including the dates and places of that involvement or conduct. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

A. Where did the events giving rise to your claim(s) occur?

IN THE CITY OF PITTSBURGH ON BLACKHAWK ST, THE DEFENDANTS EXECUTED THE SEIZURE OF MY PROPERTY, A 2008 TOYOTA PRIUS

B. What date and approximate time did the events giving rise to your claim(s) occur?

ON JANUARY 11, 2018

- C. What are the facts underlying your claim(s)? *(For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)*

WHILE I WAS AT WORK, AN OFFICER FOR THE PITTSBURGH POLICE DEPARTMENT, MIKE WHITE, AUTHORIZED THE TOWING OF MY VEHICLE FROM BLACKHAWK ST IN THE CITY OF PITTSBURGH. MACS TOWNG OF HOMESTEAD TOWED MY VEHICLE TO THEIR YARD AND ITS BEEN SEIZED SINCE THAT POINT

IV. Irreparable Injury

Explain why monetary damages at a later time would not adequately compensate you for the injuries you sustained, are sustaining, or will sustain as a result of the events described above, or why such compensation could not be measured.

ITS STREESFUL TO GO CHECK ON YOUR CAR AND FIND THAT ITS GONE. I DIDN'T KNOW WHAT HAD HAPPENED TO IT AND HAD TO CALL THE CITY POUND AND THE LOCAL POLICE ZONE TO FIND OUT WHAT HAPPENED. MY PROPERTY IS SITTING IN A YARD WITHOUT HAVING ITS ENGINE TURNED OVER AND IS A HYBRID CAR WITH SPEICALIZED BATTERIES. IT DAMAGES MY CAR TO BE UNUSED. WHEN I HAVE MY PROERTY RETURNED, I DO NOT KNOW WHAT TYPE OF DAMAGE HAS OCCURRED AS A RESULT OF THE SEIZURE. DUE PROCESS BEFORE AN IMPARTIAL FACT FINDER IS A BASIC ELEMENT OF ESTABLISHING FACTS AND ALL OF THE FACTORS IN A CIRCUMSTANCE. I AM DENIED USE OF ONE OF MY LARGEST ASSETS WITHOUT APPROPRIATE DUE PROCESS

V. Relief

State briefly and precisely what damages or other relief the plaintiff asks the court to order. Do not make legal arguments. Include any basis for claiming that the wrongs alleged are continuing at the present time. Include the amounts of any actual damages claimed for the acts alleged and the basis for these amounts. Include any punitive or exemplary damages claimed, the amounts, and the reasons you claim you are entitled to actual or punitive money damages.

AT THIS TIME MY PROPERTY IS STILL BEING HELD AT MACS TOWING IN HOMESTEAD, THE CITY OF PITTSBURGH DID NOT PROVIDE A TIMELY AND IMPARTIAL FINDER OF FACT FOR THE SEIZURE OF MY PROPERTY. THE STATE OF PENNSYLVANIA BY HAVING A BROAD VEHICLE CODE WITHOUT REASONABLE TIMETABLES FOR LOCAL MUNICIPALITIES TO HOLD HEARINGS WITH A IMPARTIAL FINDER OF FACT, PRE OR TIMELY POST SEIZURE HEARINGS, ENABLES AN OPEN ENDED SEIZURE OF MY PROPERTY.

PROPER AND TIMELY DUE PROCESS IS A BASIC TENET OF THE LEGAL SYSTEM THAT ALL OF THE GOVERNMENTAL ENTITIES SHOULD REASONABLY HAVE KNOWLEDGE OF. THE PLANTIFF ASKS FOR IMMEDIATE RELEASE OF HIS PROPERTY WITHOUT FEES AND \$5,000 FROM EACH OF THE DEFENDANTS FOR PUNITIVE DAMAGES

VI. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 03/09/2018

Signature of Plaintiff

Printed Name of Plaintiff

JOHN ABERNATHY

B. For Attorneys

Date of signing: _____

Signature of Attorney _____

Printed Name of Attorney _____

Bar Number _____

Name of Law Firm _____

Street Address _____

State and Zip Code _____

Telephone Number _____

E-mail Address _____